

OTHER AGENCIES

NEW JERSEY MEADOWLANDS COMMISSION

Proposed Amendment: N.J.A.C. 19:4-.3.8

Authorized By: New Jersey Meadowlands Commission

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Robert R. Ceberio, Secretary

Authority: N.J.S.A. 13:17-1 et seq., specifically N.J.S.A. 13:17-6(i)

Calendar Reference: See Summary below for explanation of  
exception to calendar requirement

Proposal Number: PRN 2005-442

A public hearing on this matter will be held on Tuesday, January 10, 2006

at 10:00 AM at the following location:

New Jersey Meadowlands Commission  
One DeKorte Park Plaza  
Lyndhurst, New Jersey 07071

Submit written comments by the close of business on February 3, 2006 to:

Ileana Kafrouni, P.P., AICP  
Director of Land Use Management  
New Jersey Meadowlands Commission  
One DeKorte Park Plaza  
Lyndhurst, New Jersey 07071

It is requested (but not required) that anyone submitting written comments also include a disk containing an electronic version, preferably in Microsoft Word. Interested persons may obtain a copy of the proposed amendments through the following methods:

1. The proposed amendments may be downloaded electronically from the Commission's website. They may be accessed at [www.njmeadowlands.gov](http://www.njmeadowlands.gov).

2. The proposed amendments may be inspected during normal office hours at the Commission's Public Information Center at One DeKorte Park Plaza in Lyndhurst.

The agency proposal follows:

### **Summary**

A major policy of the New Jersey Meadowlands Commission Master Plan, adopted by the New Jersey Meadowlands Commission (NJMC) in January 2004, is to spur the production of affordable housing in the Meadowlands District and the greater region. Regulations promulgated in response to the NJMC Master Plan became effective on February 17, 2004, including language governing affordable housing at N.J.A.C. 19:4-3.8.

The regulations were adopted, however, prior to the new rules of the New Jersey Council on Affordable Housing (COAH) becoming effective on December 20, 2004. These rules represent a comprehensive overhaul of the COAH system and use "growth share" to determine municipal affordable housing obligations that are consistent with sound land use planning and smart growth. As part of the changes under the rules, municipalities are responsible for providing one affordable residential unit for every eight market-rate residential units generated.

The NJMC is a regional land use authority superseding the zoning jurisdiction of portions of 14 municipalities in Bergen and Hudson counties, but the NJMC is not subject to COAH rules. As such, District municipalities accrue growth-share obligations from development approved in the District by the NJMC. In order to assist municipalities

with meeting their growth share requirements, the NJMC has offered technical assistance and funding to District municipalities to prepare their third-round housing plans. Still, the NJMC seeks to be consistent with the intent of COAH rules and further assist municipalities in meeting their growth-share requirements by requiring that all developments including residential units provide for their fair share of affordable housing on-site. Inclusionary housing is the preferred method of implementing the intent of the COAH rules.

The NJMC now proposes an amendment to its rules that requires new development to fully address, within the development itself, the affordable obligation generated by the construction of any market-rate residential units. A summary of the proposed amendments follows:

N.J.A.C. 19:4-3.8 Affordable housing: The existing rule, proposed to be recodified as subsection (a), encourages the creation of affordable housing by accepting petitions from municipalities to rezone land to meet their affordable housing requirements and by considering variances for density increases in order to meet COAH obligations. Subsection (b) is added to require new development including at least eight residential units to provide affordable units within the development pursuant to COAH's rules governing residential growth share.

As the Commission has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirements, pursuant to N.J.A.C. 1:30-3.3(a)5.

### **Social Impact**

The proposed amendment would have a positive social impact through the provision of additional affordable housing that would accompany growth in market-rate housing. The negative impacts of high housing costs and lack of housing in the greater region, which cause

hardship to the population residing in low or moderate income households, would be lessened. The proposed amendment would also assist municipalities within the Meadowlands District in meeting their affordable housing obligations. This would potentially encourage their participation in the COAH process, which may further result in the production of new affordable units, as well as the rehabilitation of substandard housing occupied by households of low or moderate income.

### **Economic Impact**

The proposed amendments primarily impact the following entities in the Meadowlands District: households of low or moderate income, employers, the development community, the 14 constituent municipalities of the Meadowlands District, and the NJMC itself.

Based on current development opportunities provided by the NJMC's zoning regulations and redevelopment plans, the provision of additional affordable housing would occur in locations near employment centers within or outside the District. Employers would benefit from the supply of labor, while workers and their households would experience a positive economic benefit from the employment opportunities. As a result, the constituent municipalities of the District would be better able to retain and attract ratables that are vital to a flourishing economy.

The development community may be negatively impacted by the proposed amendments, due to the costs of incorporating affordable units into developments that would otherwise consist of market rate housing only. This impact would be mitigated, however, by an existing provision in the NJMC's rules at N.J.A.C. 19:4-3.8 that states the NJMC will consider applications for variances to allow density increases to meet COAH obligations.

Although the impact upon the NJMC and its operations is expected to be minimal, the NJMC would need to dedicate additional staff time to discuss the requirement with and offer guidance to applicants and potential applicants, review zoning applications for compliance, and ensure that the required affordable units are built as part of the development.

If these amendments were not to be adopted, affordable housing activity would be severely restricted in the Meadowlands District.

### **Federal Standards Statement**

The Hackensack Meadowlands District is located within the Federally designated Coastal Zone Management Area for New Jersey (designated in accordance with 15 CFR 923.53(a)(1)). The NJMC acts as the lead coastal planning and management agency for the Meadowlands District under the guidance of the New Jersey Department of Environmental Protection (NJDEP).

The Commission's rules serve as a regulatory tool for meeting the goals and rules established by the New Jersey Coastal Management Program. The proposed amendments do not contain any requirements or standards in excess of those imposed under Federal law.

### **Jobs Impact**

It is anticipated that as development and construction occur naturally with the Meadowlands District, new jobs would be added that would be attributable to the construction and rehabilitation of affordable housing. No loss of jobs is anticipated as a result of these proposed amendments.

### **Agriculture Industry Impact**

The proposed amendments will not have an impact on agriculture in the State of New Jersey.

### **Regulatory Flexibility Analysis**

The rules of the NJMC impose reporting, recordkeeping or other compliance requirements on small businesses. Under terms of the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., small businesses are those that employ less than 100 full-time employees. Small businesses in the District include such groups as property owners, tenants, applicants and developers.

The NJMC does not administer its rules differently based on the size of a business because the mandates of the agency outlined in its enabling statute, N.J.S.A. 13:17-1 et seq., require that they be uniformly imposed upon all property owners in the District. N.J.S.A. 13:17-1 et seq. provides no differentiation in compliance requirements specifically based on business size.

Accordingly, the proposed amendments provide no differentiation in compliance requirements based on business size. In order to provide for uniform and consistent applicability of these rules within the District, no differential treatment is afforded to small businesses. All businesses should be able to comply with the rules utilizing the established procedures. The potential costs of compliance are discussed in the Economic Impact, above.

### **Smart Growth Impact**

Although the provisions of the New Jersey State Development and Redevelopment Plan do not apply to the NJMC (pursuant to N.J.S.A. 52:18A-206), the NJMC Master Plan sets forth smart growth principles to

guide growth within the Meadowlands District consistent with State policy. The NJMC rules serve as the implementation tool of this policy, resulting in a multi-faceted approach to promote smart growth within the Meadowlands District. For instance, several zones currently allow a mix of land uses in compact development, rather than requiring conventional single-use, low-density development. The proposed amendments would further enhance development in accordance with smart growth principles by promoting a wider range of housing choices to better meet the housing needs of low and moderate income households.

Full text of the proposal follows (additions indicated in boldface **thus**:

#### 19:4-3.8 Affordable housing

(a) The NJMC encourages the development of residential uses in accordance with New Jersey State Council on Affordable Housing (COAH) guidelines. The municipality may satisfy its COAH responsibility with any residential development in the District. The NJMC will accept petitions for rezonings from municipalities seeking to rezone land in the District to meet their COAH obligations and processed in accordance with N.J.A.C. 19:3. Applications for variances to allow density increases to meet COAH obligations shall also be considered and processed in accordance with N.J.A.C. 19:4-4.14.

**(b) Where an applicant seeks a zoning certificate in accordance with N.J.A.C. 19:4-4 for any construction or reconstruction including a minimum of eight market-rate residential units, the development shall include one affordable residential unit for every eight market-rate residential units to be constructed or reconstructed. Affordable units must have a sales price or rent within the means of a low or moderate**

income household as defined in N.J.A.C. 5:94-7 and conform to the standards set forth in N.J.A.C. 5:80-26.